

### REMARKS

The present Request For Reconsideration is submitted in response to the final Office Action that issued September 1, 2009.

The final Office Action again rejects claims 1, 2, 5, 6, 8-14 and 18-23 under 35 USC §103(a) as unpatentable over Weigelt in view of Ma. The Examiner reasserts the allegations set forth in the non-final Office Action of March 18, 2009, with several small modifications.

In response, applicants respectfully assert while they agree that Weigelt teaches a method optimization of adjustable parameters, and Ma teaches a controller to monitor the quality of the harvesting process such as grain loss, dockage, grain damage, etc., they do not agree that combining Ma with Weigelt would realize applicants' method as claimed, or that it would have been obvious for the skilled artisan to have made such a combination.

In the "Response to Arguments," the bottom of page 6 through page 7 of the final Office Action, the Examiner asserts an number of points refuting the position applicants presented in the June 18, 2009 Amendment, which applicant responds to in numbered paragraph 1-4, below.

1) The Examiner asserts that Ma teaches selecting the process algorithm to be processed from a plurality of process algorithms, as claimed. The Examiner supports this assertion by pointing out that Ma, at col. 5, lines 48-58, col. 2, lines 26-48, teaches that Ma's "processor determines, or selects a

procedure to adjust the actuators to move the process variables parameters to target ranges," i.e., Ma's fuzzy controllers.

Applicants respectfully disagree.

Ma at col. 5, lines 48-58, defines the adaptive fuzzy inference system with additional learning ability from neural networks, and asserts that newly learned harvesting experience is integrated into the inference system, whereby supervisory controller 212 learns new settings (to remember) and that system 210 adapts the inference system to incorporate the new situation.

Ma at col. 2, lines 26-48, states its system includes a supervisory controller that monitors the harvesting process to define set points for critical functional elements, a set of conventional low level controllers and an adaptive fuzzy inference system to learn and remember harvest situations.

While applicants do agree that the cited text points out that Ma operates an algorithm broadly in the defined operation of the adaptive fuzzy inference system, applicants disagree that the cited text describes the limitation of "selecting the process algorithm to be processed from a plurality of process algorithms," as claimed.

**2)** The Examiner asserts that Ma teaches selection of a process algorithm depending on the target data,<sup>1</sup> in view of the fact that Ma at col. 6, lines 4-12, teaches "the procedure for adjustment is based on target ranges."

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<sup>1</sup> The exact language of the step element is:

proposing or automatically selecting a process algorithm by the data processing system depending on data selected from the group consisting of machine-internal data, machine-external data, and target data;

Applicants respectfully disagree.

Ma, at col. 6, lines 4-12, teaches monitoring 314 to adjust its harvester settings wherein if the monitoring finds that one or more expected target ranges are not satisfied 316, the processor determines a procedure that *would be followed* by an experienced operator to adjust the actuators and at 320 determines how much to adjust, and sends control signals to the actuators (emphasis added).

That is, the adaptive fuzzy inference system determines a procedure to be followed to move the subject process variables/parameters towards the target ranges at 318, but does not select a predetermined process algorithm depending on machine-internal data or machine-external data or target data, as claimed.

**3)** The Examiner asserts that Ma teaches selecting a situation pattern ... and a process algorithm linked to the situation pattern, etc., at col. 5, lines 40-61, in view of its disclosure that “the situation pattern is selected by the adaptive neuro-fuzzy inference system,” and “selection of a situation pattern close to an instantaneous situation pattern when an exact match of a situation pattern cannot be found.”

Applicants respectfully disagree.

While Ma does teach learning and adapting automatically to incorporate settings learned from new experience, Ma does not select “situation patterns.” Ma at col. 5, lines 40-61 discloses learning and integrating the learning into its adaptive fuzzy inference system, which does not meet the limitation as claimed.

While the Examiner further asserts that "a process algorithm linked to the situation pattern is found using neural networks which learn new situations which are followed to adjust the actuators," applicants do not find support for this assertion, at col. 5, lines 40-61 or other wise.

As stated above, Ma does not teach or suggest selecting or finding "a process algorithm linked to the situation pattern [is found] using neural networks."

4) While the Examiner asserts that applicants' statement at pages 11-12 of the June 18, 2009 Amendment, that Ma and Weigelt do not teach the claimed limitations (1-3 herein), and that Ma would have to be modified to realize a method/system as claimed is a mere allegation, applicants respectfully disagree.

Applicants stand by their asserted understanding of the differences between Ma and the claim limitations.

Ma operates with a different set of operating principles, that is, using rules comprising fuzzy logic. Ma is not concerned with selecting algorithms that closely follow the machine internal data, machine external data, target data, and a combination thereof, in order to quickly optimize using a selected algorithm constructed to be responsive to the exact pattern comprising said data combination.


In view of the differences between Ma and applicant's invention as claimed, the skilled artisan would not have looked to Ma to overcome the shortcomings of Weigelt. That is, the present invention can not be derived from the combination of the references, since any combination would not lead to the

invention as claimed. Instead, Ma would have to be modified. But while Ma could be modified to cooperate with the Weigelt elements, the differences between the two references are so substantial that the skilled artisan would not have looked to Ma to modify Weigelt.

It is known that in order to arrive at a claimed invention by modifying the references cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision In re Randol and Redford, 165 USPQ 586, that prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Accordingly, the application is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application in condition for allowance.

Respectfully submitted,



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